UNITED NATIONS

A S

General Assembly Security Council

Distr.
GENERAL

A/47/931
S/25657
23 April 1993

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-seventh session
Agenda item 15 (c)
ELECTIONS TO FILL VACANCIES IN PRINCIPAL ORGANS: ELECTION OF A MEMBER OF THE INTERNATIONAL COURT OF JUSTICE

SECURITY COUNCIL
Forty-eighth year

Memorandum by the Secretary-General

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 5	2
II.	COMPOSITION OF THE INTERNATIONAL COURT OF JUSTICE	6	3
III.	PROCEDURE IN THE GENERAL ASSEMBLY AND IN THE SECURITY COUNCIL	7 - 18	3

I. INTRODUCTION

1. By a communication dated 14 January 1993, the Registrar of the International Court of Justice informed the Secretary-General of the death of Judge Manfred Lachs (Poland) on that date, and of the resulting occurrence of a vacancy in the Court. Judge Lachs became a member of the Court on 6 February 1967, was re-elected as from 6 February 1976 and again as from 6 February 1985. His present term of office would have ended on 5 February 1994. According to Article 14 of the Statute of the Court, the vacancy must be filled by the same method as that laid down for the regular election and the Secretary-General is required, within one month of the occurrence of the vacancy, to issue invitations for nominations provided for in Article 5. According to Article 5, the invitations for nominations have to be made at least three months before the date of the election, which is, pursuant to Article 14, to be fixed by the Security Council.

2. The Secretary-General informed the President of the Security Council by a letter dated 19 January 1993 of the death of Judge Manfred Lachs. By a note dated 1 February 1993 addressed to the Security Council, 1/ the Secretary-General drew its attention to Article 14 of the Statute of the Court regarding fixing the date of the election to fill the vacancy in the International Court of Justice. Pursuant to Article 14 of the Statute of the Court, the Security Council decided by resolution 805 (1993) of 4 February 1993 that the election to fill the vacancy should take place on 10 May 1993, at a meeting of the Security Council and at a meeting of the General Assembly at its forty-seventh session. The Assembly was also informed of the vacancy and of the decision of the Council (A/47/884). Pursuant to rule 15 of its rules of procedure, the Assembly decided to include an additional sub-item in the agenda of its forty-seventh session entitled "Election of a member of the International Court of Justice" (item 15 (c)).

3. Pursuant to Article 5, paragraph 1, of the Statute of the Court, the Secretary-General, in a communication dated 4 February 1993, invited the national groups of States parties to the Statute of the Court to undertake the nomination of persons in a position to accept the duties of a member of the Court. The Secretary-General further requested that nominations should be received no later than 4 May 1993. A list of the nominations received by that date and the curricula vitae of the candidates received will be transmitted in separate documents to the General Assembly and the Security Council. The names of the candidates will appear on the ballot papers to be distributed during the election.

4. Article 15 of the Statute of the Court provides that a member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term. The member elected to replace Judge Manfred Lachs will thus serve until 5 February 1994.

5. The present composition of the Court and the procedure in the General Assembly and the Security Council for filling the vacancy are described below.

II. COMPOSITION OF THE INTERNATIONAL COURT OF JUSTICE

6. The present composition of the International Court of Justice is as follows:

President: Sir Robert Yewdall Jennings (United Kingdom of Great Britain and Northern Ireland)***

Vice-President: Shigeru Oda (Japan)*

Judges: Roberto Ago (Italy)**
Stephen M. Schwebel (United States of America)**
Mohammed Bedjaoui (Algeria)**
Ni Zhengyu (China)*
Jens Evensen (Norway)*
Nikolai Tarassov (Russian Federation)**
Gilbert Guillaume (France)***
Mohammed Shahabuddeen (Guyana)**
Andrés Aguilar Mawdsley (Venezuela)***
Christopher G. Weeramantry (Sri Lanka)***
Raymond Ranjeva (Madagascar)***
Bola Ajibola (Nigeria)*

---

* Term of office expires on 5 February 1994.

** Term of office expires on 5 February 1997.

*** Term of office expires on 5 February 2000.

III. PROCEDURE IN THE GENERAL ASSEMBLY AND IN THE SECURITY COUNCIL

7. The election will take place in accordance with the following provisions:

(a) The Statute of the Court, in particular Articles 2 to 4, 7 to 12 and 14;

(b) Rules 150 and 151 of the rules of procedure of the General Assembly;

(c) Rules 40 and 61 of the provisional rules of procedure of the Security Council.

8. In accordance with General Assembly resolution 264 (III) of 8 October 1948, Nauru and Switzerland, which are parties to the Statute of the Court but not Members of the United Nations, have been invited to participate in the Assembly in electing members of the Court in the same manner as the States Members of the United Nations.

9. On the date of the election, the General Assembly and the Security Council will proceed, independently or one another, to elect a member of the Court to fill the vacancy (Art. 8 of the Statute).

10. According to Article 2 of the Statute, judges are to be elected, regardless of their nationality, from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law. Article 9 requires electors to bear in mind not only that the person to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

11. The candidate who obtains an absolute majority of votes both in the General Assembly and in the Security Council will be considered as elected (Art. 10, para. 1, of the Statute).

12. The consistent practice of the United Nations has been to interpret the words "absolute majority" as meaning a majority of all electors. The electors in the General Assembly are all the Member States, together with the two non-member States mentioned in paragraph 8 above that are parties to the Statute of the Court. Accordingly, as at the date of the present memorandum, 92 votes constitute an absolute majority in the Assembly for the purpose of the Court election.

13. In the Security Council, eight votes constitute an absolute majority and no distinction is made between permanent and non-permanent members of the Council (Art. 10, para. 2, of the Statute).

14. Only those candidates whose names appear on the ballot papers are eligible for election. The electors in the General Assembly and in the Security Council will indicate the candidate for whom they wish to vote by placing a cross against the name on the ballot paper. Each elector may vote for only one candidate.

15. If in the first ballot in either the General Assembly or the Security Council no candidate receives an absolute majority, a second ballot will be held and balloting will continue in the same meeting until a candidate has obtained the required majority (rule 151 of the rules of procedure of the Assembly and rule 61 of the provisional rules of procedure of the Council).

16. When a candidate has obtained the required majority in one of the organs, the President of that organ will notify the President of the other organ of the name of that candidate. Such notification is not communicated by the President of the second organ to the members until that organ has itself given a candidate the required majority of votes.

17. If, upon comparison of the name of the candidate so selected by the General Assembly and by the Security Council, it is found that the result is different, the Assembly and the Council will proceed, again independently of one another, in a second meeting and, if necessary, a third meeting, to elect one candidate by further ballots, the results against being compared after one candidate has

obtained an absolute majority in each organ. If necessary, the above procedure will be repeated until the Assembly and the Council have given an absolute majority of votes to the same candidate.

18. If, however, after the third meeting the vacancy still remains unfilled, the special procedure set out in Article 12 of the Statute of the Court may be resorted to at the request of either the General Assembly or the Security Council.

Notes

1/ S/25224.